

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

MDL No. 1456

C.A. No. 01-CV-12257-PBS

THIS DOCUMENT RELATES TO
01-CV-12257-PBS AND 01-CV-339

MOTION FOR LEAVE TO FILE REPLY BRIEF

Pursuant to Local Rule 7.1(b)(3), certain Track II defendants request leave to file a reply to Plaintiffs' Response to the Track II Defendants' Motion For Entry of Proposed Case Management Order No. 13. In support of this motion, the Track II defendants state as follows:

1. On February 25, 2005, certain Track II defendants filed their Motion for Entry of Proposed Case Management Order No. 13 and Proposed Case Management Order No. 13.¹ Plaintiffs filed a memorandum in opposition to this motion on March 1, 2005.
2. These Track II defendants now seek leave to file a Reply Brief in support of their Motion for Entry of Proposed Case Management Order No. 13. The reply memorandum is intended to help narrow the issues and better inform the Court of the parties' respective positions.

¹ The Track II defendants filed a corrected version of the motion on February 28, 2005.

3. Counsel for Amgen Inc., on behalf of certain Track II defendants, contacted Plaintiffs to seek their assent to this motion. Plaintiffs have not assented to this motion.

WHEREFORE, the Track II defendants respectfully move that this Honorable Court grant them leave to file a reply brief to Plaintiffs' Response to the Track II Defendants' Motion for Entry of Proposed Case Management Order No. 13.

Respectfully submitted,

THE TRACK II DEFENDANTS

By: /s/ Steven F. Barley

Frank A. Libby, Jr. (BBO No. 299110)
Douglas S. Brooks (BBO No. 636697)
Kelly, Libby & Hoopes, P.C.
175 Federal Street, 8th Floor
Boston, Massachusetts 02110
Telephone: (617) 338-9300
Facsimile: (617) 338-9911

Joseph H. Young
Steven F. Barley
Jane Ann R. Neiswender
Hogan & Hartson L.L.P.
111 S. Calvert St., Suite 1600
Baltimore, Maryland 21202
Telephone: (410) 659-2700
Facsimile: (410) 539-6981

Attorneys for Amgen Inc.

And on behalf of Defendants:

Abbott Laboratories
Aventis Pharmaceuticals Inc.
Aventis Behring L.L.C.
Hoechst Marion Roussel, Inc.

Bayer Corporation
Baxter International, Inc.
Baxter Healthcare Corp.
Dey, Inc.
Fujisawa Health Care, Inc.
Fujisawa USA, Inc.
Immunex Corporation
Novartis Pharmaceuticals Corporation
Pfizer Inc.
Pharmacia Corporation
Pharmacia & Upjohn, Inc.
Sicor, Inc., f/k/a Gensia, Inc.
Gensia Sicor Pharmaceuticals Inc.
TAP Pharmaceutical Product, Inc.
Together Rx LLC
Watson Pharmaceuticals, Inc.

March 8, 2005

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(A)(2)

Pursuant to Local Rule 7.1(a)(2), I hereby certify that counsel for Amgen, Inc., on behalf of certain Track II defendants, has conferred with counsel for plaintiffs and that plaintiffs do not assent to this motion.

CERTIFICATE OF SERVICE

I certify that on March 8, 2005, a true and correct copy of the foregoing Motion For Leave To File Reply Brief was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.

/s/ Steven F. Barley
Steven F. Barley